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RHMFIUU/DEPT OF ENERGY WASHINGTON DC
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SUBJECT: STAFFDEL FITE GIVES DAE OPTIMISTIC OUTLOOK FOR 123 AGREEMENT
IN CONGRESS

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Summary

1. (SBU) Congress will support any 123 Agreement that complies with U.S. law, House Foreign Affairs Committee staffers David Fite and Douglas Seay told Dr. Ravi Grover of the Department of Atomic Energy (DAE) on February 23. Grover asked several questions about the 123 Agreement's prospects in Congress, and he made no reference to the substance of the ongoing negotiations. Fite cautioned Grover against expecting a rapid conclusion to the negotiations, and criticized the Administration for publicly announcing what Fite felt were unrealistic timelines. Such statements created expectations that, if unfulfilled, caused commentators to cast doubt on the deal when in fact slow negotiations were normal. Congress carefully respected the red lines set out by both the Administration and India when drafting the Hyde Act. The law reflected Congress' lack of trust in the Administration. Many of the law's provisions, such as the reporting requirements, were not aimed at India, but reinforced Congressional oversight over the Administration and bound it to the commitments it made to Congress, Fite said. Seay said Congress was led to believe that civil nuclear cooperation was necessary for India to meet its energy needs, and hence many were surprised to learn that nuclear power will still play only a small role in India long after the agreement became reality. Grover said India would diversify its sources of power for energy security reasons; nuclear power might meet 25 percent of the country's power needs in the longer term. India remained committed to its vision of a closed fuel cycle, he said. Fast breeder technology was still unstable, but would become viable in the coming years. India would not contemplate placing its fast breeders, or the reactors that fueled them, under safeguards as long as the breeders remained in the developmental stage, he said. End summary.

Congressional Views on Civil Nuclear Cooperation

2. (SBU) In a February 23 meeting in Mumbai, David Fite and Douglas Seay of the House Foreign Affairs Committee briefed Dr.

Ravi Grover, Director of the Department of Atomic Energy's Strategic Planning Group, on Congressional views of the planned civil nuclear cooperation. The July 18 Joint Statement was only a lofty declaration of general guidelines that left many details undefined or unexplained, Fite told Grover. The Administration did not consult Congress before announcing the Joint Statement, or before it reached agreement with India on the separation plan announced in March of 2006, although Congress was an equal power in the formulation of foreign policy. In the ensuing discussion with Congress, when the vision of cooperation had to be anchored into law, the Administration often failed to specify what it meant, was unsure of many details or did not give Congress answers to its questions, he said.

13. (SBU) The resulting legislation was Congress' attempt to clarify what the Administration often failed to state explicitly, Fite continued. The legislation also reflected the lack of trust that Congress had in the Administration. The reporting requirements often criticized in the Indian media, for example, were not aimed at India, but at the Administration. Many of the provisions were meant to ensure Congressional oversight of the Administration and bind it to the commitments it had made to Congress. At the same time, Congress understood and respected the red lines and deal breakers set out by both the Administration and India. The law was also drafted to ensure that it received maximum support in a minimum amount of time. The speed with which the legislation passed Congress was a testimony to the strength of the underlying argument for making an exception for India. It might have been passed even sooner had the Administration been more inclusive with Congress from the beginning.

14. (SBU) Grover said the GOI would continue to assess the legislation in light of its adherence to the July 18 Joint Statement. He asked Fite and Seay whether further U.S. laws would have to be changed to make civil nuclear cooperation reality. Both responded by saying that the Administration had

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not approached Congress about doing so, and that to their knowledge no further statutory changes were needed.

The 123 Agreement

15. (SBU) Grover asked whether Congress might amend the final 123 Agreement that resulted from the current negotiations between the two governments. Fite emphasized that Congress would not, but only subject the agreement to an up-or-down vote. Seay added that Congress assumed that the Administration would consult with it before the two governments agreed on a final version of the agreement. It would be in both the Administration's and in India's interest to do so, he said. Fite emphasized that the Hyde bill envisioned that Congress would also need the final text of India's safeguards agreement with the IAEA, and NSG consensus on India, before voting on the 123 Agreement. Congress understood that India did not want to sign a binding safeguards agreement with the IAEA until Congress approved the 123 Agreement. Hence Congress would only expect the final text, and not a signed document.

16. (SBU) Grover asked about the chances of Congress defeating the 123 Agreement. Fite said he expected Congress would support any agreement that complied with U.S. law and did not contain unexpected or unusual provisions. Grover immediately asked what provisions might make Congress question an agreement. Both Fite and Seay replied that U.S. law already specified what any 123 Agreement must contain. The Hyde Act made one specific exception for India, but otherwise the requirements were in preexisting law. As long as the agreement with India adhered to the law they could not foresee challenges in Congress, they told Grover. S.K. Agrawal, the Nuclear Power Corporation's Project Director who also attended the meeting, asked whether Congress might question the Administration's interpretations of the statutory provisions that the agreement must contain as stated in the President's signing statement. That was highly unlikely,

Fite replied. The Administration knew what Congress expected, and there was no desire in Congress to torpedo the agreement. Fite said that, while Congress still had questions about the signing statement and its effect on other existing statutes, he expected the President would observe all provisions of the Hyde bill as enacted. To do otherwise might affect approval of the 123 Agreement.

Politicization of 123 Agreement Surprises Congress

¶7. (SBU) From the U.S. standpoint, the 123 Agreement was largely technical, Seay said. It therefore came as a surprise to many in Congress that the agreement had become so politicized in India. Since it was a sensitive issue in India, the Indian government would set the pace of negotiations. Fite cautioned that India should not be surprised if negotiations lasted longer than many had originally expected. Fite criticized unnamed Administration officials who, in his opinion, announced unrealistic timeframes in their public comments about the 123 Agreement. Such statements generated expectations that, if unfulfilled, caused many people to fear that negotiations were in trouble, when in fact such delays were a normal part of such complicated technical discussions, Fite said. He also cautioned Grover against expected rapid results from any negotiations over a safeguard agreement with the IAEA.

Small Role of Nuclear Power Surprises Many in Congress

¶8. (SBU) Seay told Grover that the Administration had cited India's pressing energy needs as a major reason for pursuing civil nuclear cooperation. It hence came as a surprise to many in Congress that, according to India's own forecasts, nuclear power would still play only a small role in fulfilling India's power needs even long after the initiative became reality. Grover replied that, for purposes of energy security, India wanted to diversify its sources of electrical power. Hence nuclear power should play an important, but not dominant role in the country's power mix in the coming decades. In addition,

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demand for power would grow at a rapid pace, in line with the growth of the economy. India could simply not establish enough nuclear capacity, even with imported reactors, to increase the role of nuclear power to, say, half of the country's power needs. Over the long term, nuclear power could cover up to 25 percent of India's power market, he said.

India's Three Stage Program

¶9. (SBU) Seay also asked Grover whether the planned three stage program was economically viable. Grover replied that India remained determined to build a network of fast breeders, and later thorium reactors, to meet the country's energy needs and to guarantee energy security. According to some forecasts, the world's uranium reserves could begin to dwindle by mid-century. Demand for world uranium would increase rapidly. India must have an alternative, and hence the DAE remained committed to the vision. In general, the thorium plan was widely misunderstood. The DAE was approaching the three stage plan sequentially. Currently the DAE was focused on making fast breeder reactors viable. Only when that technology was mature would the DAE begin to develop thorium reactors, Grover said.

¶10. (SBU) India's fast breeder technology was "still not stabilized," Grover added. Additional investment and research were needed. The DAE also needed power plants to provide plutonium for the fast breeders, he said. India would not contemplate placing those plants, or the fast breeders, under safeguards as long as the fast breeders were in the development phase. He did not specify, however, whether India would be prepared to do so once the fast breeders became commercially viable.

¶11. (U) Staffdel Fite cleared this cable.
KAUFFMAN